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ABSTRACT

Containing the Indian Education Act final regulations of May 21, 1980, which affect Local Educational Agency entitlement grants, the handbook of technical assistance materials is divided into two major sections. The first consists of a summary of major changes in the regulations, covering applicability, eligibility, applicable regulations, definitions, Indian preference in employment, training and contracting, applications, allocation of available funds, capacity to carry out a project, salaries and wages, organizational and administrative documents, and continuation awards. The second section contains annotated regulations for part 186 (General Provisions) and 186a (Entitlement Grants - Local Educational Agencies and Tribal Schools). Areas covered in this section include general information, and material on authorized activities, development of a project and application for a grant, granting procedures, and project operation. In both sections, the left hand column contains a photographically enlarged version of the regulations. The right hand column contains information designed to clarify those sections that are not self-explanatory. A filmscript, filmstrip and audio cassette (The Indian Education Act: Parents and Schools Working Together), prepared to acquaint new or prospective parent committee members and school staff with Part A programs, may be obtained through the Office of Indian Education. (CM)

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INDIAN EDUCATION ACT — — PART A

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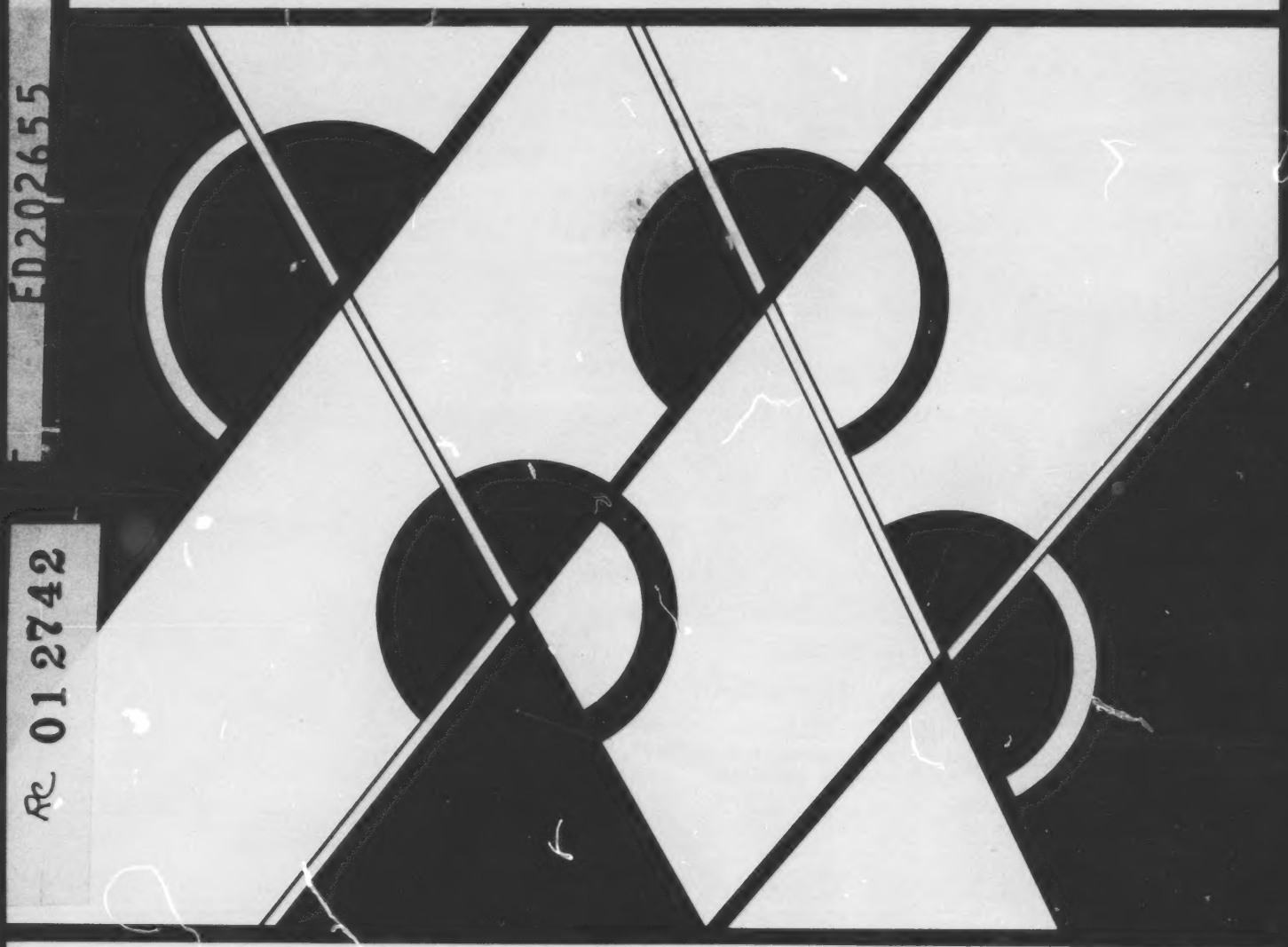

REGULATIONS
General Provisions
LEA Entitlements

This handbook was developed under Contract #300780181 from the Office of Indian Education, United States Department of Education. Contractors undertaking such projects with government sponsorship are encouraged to express their professional judgment. Points of view or opinions do not necessarily represent positions or policies of the Office of Indian Education.

INDIAN EDUCATION ACT—PART A

ANNOTATED REGULATIONS

General Provisions
LEA Entitlement

Prepared by
Indian Education Training, Inc.
for the
Office of Indian Education

1980

UNITED STATES DEPARTMENT OF EDUCATION
WASHINGTON, D.C. 20202

Dear Title IV Project Director and Parent Committee Chairperson:

The Office of Indian Education is pleased to send you this handbook on the Indian Education Act final regulations of May 21, 1980 that affect LEA entitlement grants.

The first section consists of a summary of major changes in the regulations. The second section contains the annotated regulations for part 186 -- General Provisions and 186a — Entitlement Grants -- Local Educational Agencies.

The left hand column contains a photographically enlarged version of the regulations. The right hand column contains information designed to clarify those sections that we thought were not self-explanatory.

This handbook was prepared for us by Indian Education Training, Inc., of Albuquerque, New Mexico.

We hope that it will be helpful to you.

Sincerely,

The Office of Indian Education

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Indian Education Training, Inc. wishes to express its appreciation to the more than 400 parent committee members and project staff who reviewed sections of this handbook and contributed suggestions.

This handbook is part of a set of technical assistance materials prepared for the Office of Indian Education, United States Department of Education. The other two parts of the set are:

INDIAN EDUCATION ACT—PART A
ENTITLEMENT PROGRAMS FOR PUBLIC SCHOOLS

This handbook is designed for both parent committee members and project directors. Major sections are: Parent Committee Elections, Meetings, and Bylaws; Needs Assessment, Project Design, Evaluation and Monitoring; Application Packet, Project Management; and Glossary. Sample forms are included.

THE INDIAN EDUCATION ACT: Parents and Schools Working Together.

This is a twelve minute filmstrip and audio cassette prepared to acquaint new or prospective parent committee members and school staff with Part A programs.

Throughout these materials, the term Indian is meant to include Eskimos, Aleuts, or other Alaska Natives, as defined in Section 453(a) of the Indian Education Act.

The filmscript, filmstrip and cassette can only be obtained through the Office of Indian Education (OIE). These materials were designed to acquaint new parent committee members and school staff with the purpose of the program and to outline its general requirements.

The materials are to be distributed this fall by the four regional technical assistance centers funded by OIE. Additional copies will be distributed by OIE (contact: Ms. Patsy Matthews, Department of Education, OIE, 400 Maryland Avenue SW, FOB 6, Room 2177, Washington, D.C. 20202). The materials were produced by Indian Education Training, Inc. of Albuquerque.

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MAJOR CHANGES THAT AFFECT ENTITLEMENT GRANTS

Note:

The new regulations were published in the Federal Register, Vol. 45, No. 100, Wed., May 21, 1980.

Regulation sections applying to the Indian Education Act have been given new numbers. The General Provision regulations (Part 186) apply to all programs conducted under the Indian Education Act except Indian Fellowship programs. The regulations in Part 186a apply only to entitlement grants for local educational agencies and tribal schools. Regulations for Parts 186b through 186l are not included here.

The new regulations for Part A of the Indian Education Act are presented in two major sections:

1. Part 186—Indian Education Act—General Provisions;

2. Part 186a—Entitlement Grants—Local Educational Agencies and Tribal Schools.

The Federal Register in which the new regulations appear contains a two-page summary of changes (pages 34152 and 34153). The following summary mentions those changes which directly affect entitlement grants. Changes are listed in the order in which they appear in the regulations. A new numbering system for Department of Education regulations is being developed. It is expected that Parts 186 and 186a will become Parts 250 and 251. *The content of the regulations will not change.*

I. GENERAL PROVISIONS: PART 186 Indian Education Act.

1. There is a new set of Education Division General Administrative Regulations known as **EDGAR**

Requirements from EDGAR that apply to applications will be included in the application packet (§186.3). EDGAR is referred to in the regulations as 45 CFR 100(a) and 100(c). (These numbers are expected to change to 34 CFR 75 and 77 in the new numbering system.)

2. Definitions (§186.4)

The term "parent" includes a legal guardian or other individual standing in loco parentis (in the place of the parent). Examples are given in the regulation.

This new definition comes from the Indian Education Act as amended by P.L. 95-561, Title XI-Part C, November 1, 1978.

3. Applicability of Section 7(b) of the Indian Self-Determination and Education Assistance Act (§186.5 (b))

This section concerns itself with Indian preference in training, employment, and contracting. It applies only to those awards that are primarily for the benefit of Indian students as defined in the Indian Self-Determination and Education Assistance Act. That definition is reprinted in the regulations.

4. Salaries and Wages (§186.9)

A Part A grantee is now required to pay salaries and wages that are at least comparable to the salaries and wages paid in the local area for similar jobs.

5. Continuation Awards (§186.11)

The Secretary of Education may approve Part A entitlement projects for up to three years.

II. ENTITLEMENT GRANTS—Local Educational Agencies and Tribal Schools. Part 186a.

1. Purpose of the Program (§186a.1)

Programs may now be designed to meet the "culturally-related academic needs of Indian children." This phrase is new and appears several times in the regulations. It is taken directly from P.L. 95-561, Title XI, Part C (November 1, 1978) amendments to the Indian Education Act.

2. Tribal Schools (§186a.2)

Tribal schools were made eligible for Part A entitlement grants through P.L. 95-561, Title XI, Part C.

3. Authorized Activities (§186a.10)

When a Part A program provides funds based on family financial needs, the local education agency and the parent committee must establish criteria and guidelines to define need.

4. Selecting the Parent Committee (§186a.20)

There is now no limitation on the number of committee members. Previous regulations had set it at 40.

At least one half the committee members must be Indian.

At least one teacher and one Indian secondary student (when secondary students are enrolled) must be on the committee.

Certified guidance counselors may also serve on the committee as teachers.

Teachers and counselors who are members of the project staff may not serve on the parent committee.

5. Conducting a Needs Assessment (§186a.21)

The process and requirements for a needs assessment are spelled out in greater detail.

6. Designing a Project (§186a.22)

The process and requirements for designing a project are spelled out in greater detail.

7. Developing an Evaluation Plan (§186a.23)

The process and requirements for an evaluation plan are spelled out in greater detail.

8. Amount of Grant (§186a.31)

The formula for determining the

amount of a grant is summarized.

9. Responsibilities of the Parent Committee (§186a.41)

The parent committee is to advise the local educational agency on the development of policies and procedures relating to the hiring of project staff and make recommendations for project staff positions. This is taken from P.L. 95-561, Title XI, Part C amendments to the Indian Education Act.

Parent committees are now required to have bylaws, to keep them on file, and to submit them to the Secretary of Education on request.

10. Limitations on Hiring Project Staff (§186a.42)

This section has some restrictions on hiring parent committee members or members of their immediate family as project staff. It also describes how and when these restrictions can be waived.

ANNOTATED REGULATIONS

The following section contains a photostatic enlargement of the new regulations (General Provisions and Part A) published May 21, 1980 in the Federal Register. *This copy has not been retyped. The text appears exactly as published.* The column length has been altered to fit the format of this handbook.

The left-hand column contains the official regulation; the right-hand column describes the major changes from the old regulations, published July 6, 1973, in the Federal Register, Vol. 38, No. 129. Since this handbook is written for the staff and parent committee members of entitlement programs only, it will be noted on the side when the general provisions do not apply to entitlement programs. Other less significant changes that affect entitlement grants are also listed in the right-hand column.

By scanning quickly through the material and looking for the notes on the right-hand side of the page, you can easily see where significant changes have been made. Where there are no notes, the regulations have remained essentially the same.

The contents lists the section number, the name of the section, and the page on which it can be found in this handbook.

The regulations will be recodified later under Title 34 of the Code of Federal Regulations instead of Title 45 as at present. The Secretary of Education will advise the public of this change through a notice in the Federal Register. (See page 34153, Vol. 45, No. 100, Wed., May 21, 1980.) This will not change the content of the regulations.

PART 186—INDIAN EDUCATION ACT—GENERAL PROVISIONS

Sec.

186.1 Applicability.
186.2 Eligibility.
186.3 Other applicable regulations.
186.4 Definitions.
186.5 Applicability of Section 7(b) of the Indian Self-Determination and Education Assistance Act.
186.6 Applications.
186.7 Allocation of available funds.
186.8 Capacity to carry out a project.
186.9 Salaries and wages.
186.10 Organizational and administrative documents.
186.11 Continuation awards.

Authority: Title IV of Pub. L. 92-318, 86 Stat. 334, as amended (20 U.S.C. 241aa-241ff, 1211a, 1221h, 3385, 3385a), unless otherwise noted.

§186.1 Applicability.

The regulations in this part apply to all programs conducted under the Indian Education Act, except the Indian Fellowship Program (see 45 CFR Part 187). The regulations for these programs are contained in the following parts.

186a—Entitlement Grants—Local Educational Agencies and Tribal Schools
186b—Indian-Controlled Schools—Establishment
186c—Indian-Controlled Schools—Enrichment Projects
186d—Demonstration Projects—Local Educational Agencies
186e—Educational Services for Indian Children
186f—Planning, Pilot, and Demonstration Projects for Indian Children
186g—Educational Personnel Development
186h—Educational Services for Indian Adults
186i—Planning, Pilot, and Demonstration Projects for Indian Adults
186j—Adult Education Research and Development Projects
186k—Adult Education Surveys
186l—Adult Education Dissemination and Evaluation Projects

(20 U.S.C. 241aa-241ff, 1211a, 3385, 3385a)

Names programs contained in Parts 186a through 186l. The Indian Fellowship Program is not included in this section. It is in 45 CFR 187. This handbook deals only with Part 186a.

REGULATIONS	NOTES
§186.2 Eligibility. Eligibility for each of the programs is described in the section on eligibility under the appropriate part. (20 U.S.C. 241aa–241ff, 1211a, 3385, 3385a)	Go to each program regulation to find out what its particular eligibility requirements are.
§186.3 Other applicable regulations. (a) The programs under 45 CFR Parts 186a through 186l are subject to the Education Division General Administrative Regulations (EDGAR) in 45 CFR Part 100a (Direct Grant Programs) and 45 CFR Part 100c (Definitions), except for— (1) Sections 100a.107(a), 100a.111 (d) and (e), and 100a.115 (insofar as it incorporates section 100a.590(c)), relating to the contents of an application; (2) Section 100a.125(a), relating to applications under separate programs; (3) Sections 100a.202 through 100a.206, relating to selection criteria; (4) Section 100a.590(c), relating to a grantee's project evaluation; and (5) Section 100a.650, relating to the participation of children enrolled in private schools.	There is a new set of Education Division General Administrative Regulations known as EDGAR. All programs under this part are subject to EDGAR.
(b) Sections 100a.230 through 100a.233, relating to procedures to make a grant, do not apply to the program of entitlement grants to LEAs and tribal schools, for which regulations are contained in 45 CFR Part 186a.	(b) LEAs and tribal schools applying for entitlement grants follow the procedures in Part 186a.
(c) *How to use regulations.* The "Introduction to Regulations of the Education Division" at the beginning of the EDGAR includes general information to assist applicants in using regulations that apply to Department of Education programs. (d) *How to apply for funds.* General instructions for applying for assistance under an Education Division program are contained in 45 CFR Part 100a. (20 U.S.C. 241aa–241ff, 1211a, 3385, 3385a)	

§ 186.4 Definitions.

(a) Except as otherwise provided by statute or regulation, the following terms, used in this part and in 45 CFR Parts 186a through 186l are defined in 45 CFR Part 100c:

Applicant.
Application.
Award.
Budget period.
Elementary school.
Facilities.
Fiscal year.
Grant period.
Local educational agency.
Minor remodeling.
Project.
Project period.
Public.
Secondary school.
State.
State educational agency.

This first list of definitions is provided in EDGAR, Part 100c.

(b) The following definitions apply to the terms in this part and in 45 CFR Parts 186a through 186l, unless otherwise provided:

"Adult" means any individual who has attained the age of sixteen.

"Adult education" means services or instruction below the college level for adults who—

(1) Lack sufficient mastery of basic educational skills to enable them to function effectively in society or who do not have a certificate of graduation from a school providing secondary education and who have not achieved an equivalent level of education; and

(2) Are not currently required to be enrolled in schools.

"Ancillary educational personnel" means guidance counselors, librarians, and others who assist in meeting the educational needs of Indian students. The term does not include persons in such positions as clerks, cafeteria personnel, or other positions not directly involved in the educational process.

Ancillary education personnel was not defined in previous Indian Education Act regulations.

"Child" means any child who is within the age limits for which the

applicable State provides free public education.

"Demonstration project" or "planning, pilot, and demonstration project" means a project that—

(1) Develops, tests, and demonstrates the effectiveness of an educational method, approach, or technique; and

(2) If successful, will be suitable for adaptation by other projects.

"Department" means the U.S. Department of Education.

"Equipment" means—

(1) Machinery, utilities, and built-in equipment;

(2) Any enclosures or structures necessary to house the items listed in paragraph (1) of this definition; and

(3) All other items necessary for the functioning of a facility for the provision of educational services, including items such as—

(i) Instructional equipment and necessary furniture;

(ii) Printed, published, and audio-visual instructional materials; and

(iii) Books, periodicals, documents, and other related materials.

"Free public education" means education that is both—

(1) Provided at public expense, under public supervision and direction, without tuition charge; and

(2) Provided as elementary or secondary school education in the applicable State.

"Full-time student" means an individual pursuing a course of study that constitutes a full-time work load in accordance with an institution's established policies.

"Handicapped" person means a mentally retarded, hard-of-hearing, deaf, speech-impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health-impaired person or a person with specific learning disabilities, who, because of his or her handicap, requires special educational and related services.

REGULATIONS	NOTES
"Indian" means any individual who is— (1) A member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized by the State in which they reside; (2) A descendant, in the first or second degree, of an individual described in paragraph (1) of this definition; (3) Considered by the Secretary of the Interior to be an Indian for any purpose; or (4) An Eskimo or Aleut or other Alaska Native. (Indian Education Act, Section 453(a); 20 U.S.C. 1221h(a))	This definition of Indian is taken from §453(a) of the Indian Education Act.
"Indian institution" means a pre-school, elementary, secondary, or post-secondary school that— (1) Is established for the education of Indians; (2) Is controlled by a governing board, the majority of which is Indian; and (3) If located on an Indian reservation, operates with the sanction or by charter of the governing body of that reservation.	
"Indian organization" means an organization that— (1) Is legally established by tribal or inter-tribal charter or in accordance with State or tribal law, with appropriate constitution, by-laws, and articles of incorporation; (2) Has the primary purposes of promoting the educational, economic, or social self-sufficiency of Indians; (3) Is controlled by a governing board, the majority of which is Indian; (4) If located on an Indian reservation, operates with the sanction or by charter of the governing body of that reservation; (5) Is neither an organization or subdivision of, nor under the direct	**Expanded** definition of Indian organization to recognize those established by "inter-tribal charter" and by "tribal law."

control of, any institution of higher education; and

(6) Is not an agency of State or local government.

"Indian tribe" means any federally or State recognized Indian tribe, band, nation, rancheria, pueblo, Alaska Native village, or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), that exercises the power of self-government.

"Institution of higher education" means an educational institution in any State that—

(1) Admits as a regular student only an individual having a high school graduation certificate or the recognized equivalent of a high school graduation certificate;

(2) Is legally authorized within that State to provide a program of education beyond high school;

(3) Provides—

(i) An educational program for which it awards a bachelor's degree;

(ii) An educational program of not less than two years that is acceptable for full credit toward a bachelor's degree; or

(iii) A two-year program in engineering, mathematics, or the physical or biological sciences that is designed to prepare a student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields that require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

(4) Is a public or other nonprofit institution; and

(5)(i) Is accredited by a nationally recognized accrediting agency or association listed by the Secretary, or, if not accredited, is an institution whose credits are accepted, on transfer, by not less than three institutions that are accredited, on the same basis as if transferred from an institution that is accredited.

(ii) However, in the case of an institution offering a two-year program in engineering, mathematics, or the physical or biological sciences that is designed to prepare a student to work as a technician and at a semiprofessional level in engineering, scientific, or technological fields that requires the understanding and application of basic engineering, scientific, or mathematical principles or knowledge, if the Secretary determines that there is no nationally recognized accrediting agency or association qualified to accredit that type of institution, the Secretary shall appoint an advisory committee, composed of persons specially qualified to evaluate training provided by that type of institution.

The advisory committee shall prescribe the standards of content, scope, and quality that must be met in order to qualify that type of institution to participate under the appropriate program and shall also determine whether particular institutions meet those standards.

(iii) For the purpose of this paragraph the Secretary shall publish a list of nationally recognized accrediting agencies or associations which the Secretary determines to be reliable authority as to the quality of education or training offered.

"Local educational agency" (LEA), as used in 45 CFR Parts 186h through 186l (adult education programs under Part C of the Indian Education Act), means—

(1) A public board of education or other public authority legally constituted within a State for either administrative control or direction of public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or combination of school districts or counties recognized in a State as an administrative agency for its public elementary or secondary schools; or

This definition of local education agency applies only to Part C (adult education programs).

(2) If there is a separate board or other legally constituted local authority having administrative control and direction of adult education in public schools in the area referred to in paragraph (1), that other board or authority.

"Organized group of Indians" means an ethnically and culturally identifiable group of Indians, indigenous to the territory of what is now the United States, and which has been in substantially continuous existence throughout the history of the United States.

The term organized group of Indians is taken directly from the definition of Indian in the Indian Education Act. This is the first time the term has been defined in the regulations.

"Parent". (1) The term "parent" includes a legal guardian or other individual standing *in loco parentis* (in the place of the parent).

Examples of individuals who may stand *in loco parentis* with respect to a child are—

(i) A foster parent of the child; and

(ii) A grandparent with whom the child resides.

(2) In determining whether an individual stands *in loco parentis* with respect to a child, an LEA may consider such factors as—

(i) The current relationship of the child to the natural parent(s);

(ii) The length and stability of the relationship between the individual and the child;

(iii) Tribal custom and tribal law;

(iv) Applicable State law, whether legislative or judicial; and

(v) Dependency for purposes of State or Federal income tax law.

This expanded definition of parent is based upon the Indian Education Act as amended by P.L. 95-561, Title XI, Part C, November 1, 1978.

"Secondary school," as used in 45 CFR Parts 186e through 186g (programs under Part B of the Indian Education Act), means a day or residential school that provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

"Secretary" means the Secretary of Education.

"Service area" means the geographic area served by a project.

"State," as used in 45 CFR Parts 186a through 186d (programs under Part A of the Indian Education Act), means any of the 50 States, Puerto Rico, Wake Island, Guam, the District of Columbia, American Samoa, or the Virgin Islands.

"Stipend" means the allowance for personal living expenses paid to a participant in a personnel development project.

"Teacher aide" means a person who assists a teacher in the performance of the teacher's teaching or administrative duties. The term does not include persons in such positions as clerks, cafeteria personnel, or other positions not directly involved in the educational process.

(20 U.S.C. 241aa-241ff, 244, 1202, 1211a, 1221h(a), 3381, 3385, 3385a)

§ 186.5 Applicability of Section 7(b) of the Indian Self-Determination and Education Assistance Act.

(a) Awards under parts 186a through 186l that are primarily for the benefit of Indians, as defined in paragraph (b) of this section, are subject to Section 7(b) of Pub. L. 93–638, the Indian Self-Determination and Education Assistance Act. That section requires that, to the greatest extent feasible, a grantee—

(1) Give preferences and opportunities for training and employment in connection with the administration of the grant to Indians; and

(2) Give preference in the award of contracts in connection with the administration of the grant to Indian organizations and to Indian-owned economic enterprises as defined in Section 3 of the Indian Financing Act of 1974, 25 U.S.C. 1452(e).

(Pub. L. 93–638, Section 7(b); 25 U.S.C. 450e(b))

This section concerns itself with Indian preference in employment, training, and contracting. It applies only to grant awards that are primarily for the benefit of Indians, as defined in P.L. 93-638 (the Indian Self-Determination Act). That definition is given on the next page in paragraph (b).

(b) For the purposes of this section, an "Indian" is a member of an Indian tribe. An "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(Pub. L. 93–638, Section 4 (a), (b); 25 U.S.C. 450b (a), (b))

This definition of Indian applies **only** to §186.5. It is taken directly from P.L. 93-638 (the Indian Self-Determination Act).

§ 186.6 Applications.

(a) An applicant shall specify in its application the particular program under 45 CFR Parts 186a through 186l under which it is applying.

(b) If an applicant submits an application for a program under 45 CFR Parts 186a through 186l for which the proposed project is not authorized, the Secretary may, with the consent of the applicant, review the application under an appropriate program, if any under Parts 186a through 186l, for which it may be timely considered.

(20 U.S.C. 241aa–241ff, 1211a, 3385, 3385a)

§ 186.7 Allocation of available funds.

(a) Each year, the Secretary, in accordance with the provisions of 45 CFR Parts 100a.100 through 100a.102, publishes an application notice that states the amount of funds available for new projects under each of the programs governed by 45 CFR Parts 186a through 186l.

Every year the Secretary will publish an **application notice** with the amount of funds available for new projects. This is a provision of EDGAR.

(b) When making awards for new projects, the Secretary allocates funds to each program on the basis of the statement of available funds in the application notice. However, the Secretary may reduce the allocation of funds for a program (other than the entitlement grants program described in

Funds for the 186a entitlement program will be fixed based on the appropriations for that year.

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Part 186a) and reallocate the excess funds to other programs authorized by the appropriate part of the Indian Education Act, if the Secretary determines, on the basis of the appropriate selection criteria, that the amount of funds necessary for approvable activities described in meritorious applications is less than the entire initial allocation for that program.

(20 U.S.C. 241aa–241ff, 1211a, 3385, 3385a)

The Secretary may reallocate funds for discretionary programs. This authority was given through P.L. 95-561, Title XI, Part C (November 1, 1978).

§ 186.8 Capacity to carry out a project.

In addition to the criteria for rating applications under the discretionary programs in 45 CFR Parts 186b through 186l, the Secretary, in making awards under those programs, considers an applicant's capacity to carry out successfully the project for which it seeks assistance, including such factors as—

(a) The programmatic and financial management capacity of the applicant;

(b) Past performance by the applicant in carrying out any prior grant under the Indian Education Act or under similar programs, as indicated by such factors as compliance with grant conditions, soundness of programmatic and financial management practices, attainment of objectives, and the assumption of responsibility by the applicant's governing board; and

(c) The adequacy of facilities and other resources to be used for the project, including consideration of any dispute over the availability of those facilities and resources to the applicant.

(20 U.S.C. 241aa–241ff, 1211a, 3385, 3385a)

Discretionary programs under Parts 186b through 186l have additional criteria for rating applications. This section does not apply to Part A entitlement grants.

§ 186.9 Salaries and wages.

A grantee shall pay individuals hired for a project assisted under 45 CFR Parts 186a through 186l salaries and wages that are at least comparable to the

This provision applies to all grants funded under the Indian Education Act.

salaries and wages paid in the local area to those with similar jobs.

(20 U.S.C. 241aa–241ff, 1211a, 3385, 3385a)

§ 186.10 Organizational and administrative documents.

(a) A grantee shall have on file, and submit to the Secretary on request—

(1) Articles of incorporation, if incorporated;

(2) A constitution, charter or similar document, if not incorporated;

(3) By-laws;

(4) Personnel policies and procedures;

(5) Travel policies;

(6) Organizational charts and administrative manuals; and

(7) Job descriptions.

(b) An LEA that is a grantee under 45 CFR Parts 186a through 186d shall have on file, and submit to the Secretary on request, the names and addresses of the members of the LEA's parent committee, and the by-laws adopted by the parent committee.

Upon request, LEAs must provide the names and addresses of parent committee members and a copy of the parent committee's bylaws.

(20 U.S.C. 241aa–241ff, 1211a, 3385, 3385a)

§ 186.11 Continuation awards.

(a) The Secretary may fund projects under 45 CFR Parts 186a through 186l for up to three years, except that the Secretary may fund projects under the Educational Personnel Development programs described in 45 CFR Part 186g for up to four years.

(a) Part A projects may be approved for up to three years.

(b) Additional regulations governing continuation awards are in 45 CFR 100a.251 and 100a.253.

(b) Additional regulations for continuation awards are in EDGAR.

(20 U.S.C. 241aa–241ff, 1211a, 3385, 3385a)

2. A new Part 186a is added as follows:

PART 186a—ENTITLEMENT GRANTS—LOCAL EDUCATIONAL AGENCIES AND TRIBAL SCHOOLS

Subpart A—General

Sec.
186a.1 What is the purpose of this program?
186a.2 Who is eligible to apply?
186a.3 Applicability of this part to local educational agencies and tribal schools.
186a.4 Other applicable regulations.
186a.5 Maintenance of effort.
186a.6 Prohibition on supplanting other funds.

Subpart B—What Activities Are Authorized?

186a.10 Authorized activities.

Subpart C—How to Develop a Project and Apply for a Grant

186a.20 Selecting the parent committee.
186a.21 Conducting a needs assessment.
186a.22 Designing a project.
186a.23 Developing an evaluation plan.
186a.24 Holding a public hearing.
186a.25 Application contents.
186a.26 Continuation awards.

Subpart D—How Grants Are Made

186a.30 Approval of applications by the Secretary.
186a.31 Amount of grant.

Subpart E—Operating a Project

186a.40 Responsibilities of the local educational agency.
186a.41 Responsibilities of the parent committee.
186a.42 Limitations on hiring project staff.

Authority: Title IV, Part A, of Pub. L. 92-318, 86 Stat. 334, as amended (20 U.S.C. 241aa-241ff), unless otherwise noted.

Subpart A—General

§ 186a.1 What is the purpose of this program?

This program provides financial assistance under Part A of the Indian Education Act to develop and carry out elementary and secondary school projects that meet the special

educational and culturally related academic needs of Indian children.

(Pub. L. 81–874, Section 302(a); 20 U.S C. 241aa(a); and Pub. L. 95–561, Section 1146; 20 U.S.C. 241bb–1)

The phrase "culturally-related academic needs" is taken directly from P.L. 95-561, Title XI, Part C (November 1, 1978).

§ 186a.2 Who is eligible to apply?

(a) *Local educational agencies.* (1) A local educational agency (LEA) is entitled to receive a grant if the number of Indian children enrolled in that agency's schools is either—

(i) 10 or more; or

(ii) At least half the total enrollment for that agency.

(2) However, an LEA may apply without regard to the enrollment requirements of paragraph (a)(1) of this section if it is located—

(i) In Alaska, California, or Oklahoma; or

(ii) On, or in proximity to, an Indian reservation.

(Pub. L. 81–874, Section 303(a); 20 U.S.C. 241bb(a))

(b) *Tribal schools.* An Indian tribe, or an organization that is controlled or sanctioned by an Indian tribal government, that operates a school for the children of that tribe, is eligible to receive a grant on behalf of that school if the school either—

(1) Provides its students an educational program that meets the standards established by the Bureau of Indian Affairs under Section 1121 of the Education Amendments of 1978 (25 U.S.C. 2001), which requires the establishment of standards for the basic education of Indian children in Bureau of Indian Affairs schools; or

(2) Is operated by that tribe or organization under a contract with the Bureau of Indian Affairs in accordance with the Indian Self-Determination and Education Assistance Act, Pub. L. 93–638.

(Pub. L. 95–561, Section 1146; 20 U.S.C. 241bb–1)

(b) Tribal schools as defined here were made eligible by P.L. 95-561, Title XI, Part C (November 1, 1978).

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§ 186a.3 Applicability of this part to local educational agencies and tribal schools.

(a) *Applicable to LEAs.* All the provisions of this Part 186a, except those applicable by their terms only to tribal schools, apply to applicants or grantees that are LEAs.

(b) *Applicable to tribal schools.* The following provisions of this Part 186a apply to applicants or grantees applying for or receiving assistance to support tribal schools, except to the extent that they refer to a parent committee.

(1) Section 186a.6, relating to the supplanting of other funds.

(2) Section 186a.10, relating to authorized activities.

(3) Section 186a.21 through 186a.24, relating to the development of a project.

(4) Section 186a.25(b), relating to the contents of an application.

(5) Section 186a.26, relating to continuation awards.

(6) Sections 186a.30 and 186a.31, relating to the award of grants.

(7) Section 186a.40(n), relating to student eligibility forms.

(b) These provisions apply to tribal schools. References to parent committees do not apply to tribal schools since tribal schools do not have to have parent committees for their Part A projects.

§ 186a.4 Other applicable regulations.

(a) The provisions of 45 CFR Parts 100a and 186 apply to this program.

(b) Grantees under this program are subject to the provisions of 34 CFR 74.102 through 74.105(b), relating to programmatic changes and budget revisions.

EDGAR (Direct Grant Programs—100a) as well as Part 186 regulations apply.

(Pub. L. 81–874, Sections 302–307; 20 U.S.C. 241aa–241ff)

§ 186a.5 Maintenance of effort.

(a) The Secretary does not make payments to an LEA for any fiscal year unless the appropriate State educational agency (SEA) finds that the combined fiscal effort of that LEA and the State with respect to the provision of free public education by that LEA for the preceding fiscal year was not less than

(a) The combined fiscal effort of the LEA and state for the provision of free public education by that LEA must not have been less for the last year than it was the year before. The Office of Indian Education gets this information from the State Departments of Education.

the combined fiscal effort for that purpose for the second preceding fiscal year.

(b)(1) For the purpose of making the finding described in paragraph (a) of this section, an SEA may compute combined fiscal effort on the basis of either aggregate expenditures or per pupil expenditure.

(2) "Aggregate expenditures" means expenditures by the LEA and the State for free public education provided by that LEA, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay and debt service, or any expenditures from funds granted under any Federal program of assistance.

(3) "Per pupil expenditure" means aggregate expenditures divided by the number of pupils in average daily attendance at the LEA's schools—as determined in accordance with State law—during the fiscal year for which the computation is made.

(Pub. L. 81-874, Section 306(b)(2); 20 U.S.C. 241ee(b)(2))

§ 186a.6 Prohibition on supplanting other funds.

A grantee shall use funds received under this program to supplement, and, to the extent practical, increase the level of State, local, or other Federal funds that would, in the absence of grant funds, be made available by the recipient for the education of Indian children. In addition, a grantee should, to the extent feasible, coordinate the use of funds received under this program with those State, local, or other Federal

(b) (1) **Adds** provision that for the purpose of (a) above, the SEA may use either aggregate expenditures or per pupil expenditure.

If the aggregate expenditures have increased, but the per pupil expenditures have decreased, the SEA may use the aggregate expenditures.

If the per pupil expenditure has increased, but the aggregate expenditures have decreased, the SEA may use the per pupil expenditure.

funds. A grantee may not, however, use grant funds to supplant those State, local, or other Federal funds.

(Pub. L. 81–874, Section 305(a)(5); 20 U.S.C. 241dd(a)(5))

Subpart B—What Activities Are Authorized?

§ 186a.10 Authorized activities.

(a) A grantee may use grant funds for the establishment, maintenance, and operation of projects specifically designed to meet the special educational or culturally related academic needs, or both, of Indian children. Permissible services and activities include, but are not limited, to—

Adds that permissible activities may include but are not limited to those mentioned.

(1) Remedial instruction in basic skill subject areas;

(2) Instruction in tribal heritage and in Indian history and political organization. This includes current affairs and tribal relationships with local, State, and Federal governments;

(3) Accelerated instruction and other activities that provide additional educational opportunities;

(4) Home-school liaison services;

(5) Creative arts such as traditional Indian art, crafts, music, and dance;

(6) Native language arts, including bilingual projects and the teaching and preservation of Indian languages; and

(7)(i) Where the conditions in paragraph (7)(ii) of this section are met, the following items that parents cannot afford:

(A) School-related items, such as academic expenses and expenses for participation in extracurricular activities sponsored by the school.

(B) In cases of extreme hardship, food, clothing, and medical and dental care.

The new regulations clarify that under certain circumstances, project funds may be used to pay for school-related items and, in cases of extreme hardship, food, clothing, and medical and dental care.

(ii) The items described in paragraph (7)(i) of this section may be provided only if—

(A) The parent committee and the LEA establish eligibility criteria based on financial need for receipt of those items;

(B) These items are provided only to children whose parents meet those eligibility criteria; and

(C) These items are not available from any other source.

(b) A grantee may also use grant funds—

(1) To plan for and take other steps leading to the development of projects like those described in paragraph (a) of this section and to carry out pilot projects designed to test the effectiveness of those plans.

(c) The Secretary encourages all grantees to use culturally-based materials and techniques in project activities.

(Pub. L. 81-874, Section 304; 20 U.S.C. 241cc)

The parent committee and the LEA must establish eligibility criteria based on financial need for these items.

Subpart C—How to Develop a Project and Apply for a Grant

§ 186a.20 Selecting the parent committee.

(a) Before developing a project, an applicant shall arrange and publicize the procedures for the selection of a parent committee or the selection of members to open positions on the committee, as appropriate.

(b) Those eligible to serve on the committee are—

(1) Parents of Indian children enrolled in the applicant's schools;

(2) Teachers, including certified guidance counselors, in the applicant's schools, except that members of the project staff may not serve on the committee; and

(3) Indian secondary school students, if any, enrolled in the applicant's schools.

(c) At least half the committee members shall be Indian.

The 1976 regulations contained a 40-member maximum; there is no limitation in the new regulations.

Certified guidance counselors and teachers are eligible to serve on the committee. Project staff members may not serve. At least one member of the committee must be an Indian secondary school student if any Indian secondary students are enrolled in the applicant's schools. At least one member must be a teacher.

(d) At least half the committee members shall be parents. In addition, the committee shall have at least one teacher, and, if any Indian secondary school students are enrolled in the applicant's schools, at least one of those students.

(e) The committee members shall be elected by those listed in paragraph (b) unless the Secretary, in deference to tribal custom, determines that a method of selection other than election, such as sanction by a tribal government, is appropriate in a particular situation. In such a case, the Secretary may, on written request of the applicant, and before the selection of the committee, allow the use of that other method. In making this determination, the Secretary consults with appropriate tribal representatives.

The committee will be elected by (1) parents of Indian children enrolled in the applicant's schools; (2) teachers, including guidance counselors (except project staff); (3) Indian secondary school students enrolled in the applicant's schools. In those special cases where established tribal custom dictates a selection process other than election, the LEA must request written permission from the Secretary to proceed with an alternative method.

(f) Any member of the committee may serve as any officer of the committee.

(g) Membership terms may be multi-year and may be staggered. For example, membership terms may be for three years, with one third of the committee selected each year.

Terms of the committee members may run for more than one year and may be staggered.

(h) An individual may continue to be a member of the committee only so long as that individual meets the qualifications in paragraph (b) of this section.

(i) Section 186a.42 *(Limitations on hiring project staff)* prohibits the applicant from hiring for a position on the project staff any member of the parent committee or any member of the immediate family of a parent committee member, unless the Secretary grants a waiver.

(Pub. L. 81-874, Section 305(b)(2)(B); 20 U.S.C. 241dd(b)(2)(B))

§ 186a.21 Conducting a needs assessment.

(a) An applicant shall conduct a needs assessment to determine the special educational and culturally related

academic needs of the Indian children enrolled in its schools and the number of children with those needs.

(b) In making this determination, the applicant shall—

(1) Consider dropout rates, academic achievement levels, standardized test scores, or other appropriate measures;

(2) Rank those needs on a priority basis; and

(3) Examine other services that it offers that could meet those needs, determine how many Indian children receive those services, and determine why those other services are insufficient in either quantity or quality, or both, to meet those needs. This shall include an examination of whether those services are culturally relevant to Indian children.

(Pub. L. 81–874, Section 305(b)(2)(A); 20 U.S.C. 241dd(b)(2)(A))

§ 186a.22 Designing a project.

(a) After the needs assessment is completed, an applicant shall determine which needs will be addressed and shall design a project to meet those needs.

(b) In designing the project, the applicant shall seek to include activities, services, and materials that support and build upon the values, heritage, and traditions of the Indian community.

(c) The project design shall include—

(1) Objectives that are—

(i) Sharply defined;

(ii) Stated in measurable terms; and

(iii) Capable of being achieved within the project period;

(2) An activity plan, including a timeline, that clearly and realistically outlines the activities related to each objective;

(3) A plan for effective administration of the project;

(4) A plan for regular consultation with and involvement of the parent committee and the Indian community in the operation of the project; and

(5) A plan for coordinating the project with other services and activities.

(Pub. L. 81–874, Section 305(b)(2); 20 U.S.C. 241dd(b)(2))

§ 186a.23 Developing an evaluation plan.

(a) The applicant shall also develop, as part of the project design, an evaluation plan that provides for—

(1) Periodic monitoring of the project's progress;

(2) An objective, quantifiable method, including an appropriate measurement of educational achievement, to determine if the project meets each of its objectives;

(3) An evaluation of the administration of the project;

(4) The involvement of the parent committee in monitoring and evaluation activities; and

(5) Consultation with parents of Indian children served by the project and with other members of the Indian community.

(b) The evaluation plan shall include provisions for an evaluator independent of the project to—

(1) Assist in monitoring and evaluation activities; and

(2) Conduct a final evaluation of the project.

(Pub. L. 81–874, Section 305(a)(4); 20 U.S.C. 241dd(a)(4))

Quantifiable is a new term in the regulations. It means that there must be a way to measure the achievements of the project against the stated objectives.

§ 186a.24 Holding a public hearing.

(a) The applicant shall hold a hearing open to the general public, at which it provides an opportunity for full public discussion of the proposed project.

(b) At the hearing, a representative of the applicant shall—

(1) Describe the various alternatives available under this program;

(2) Describe the proposed project, including the LEA's compliance with the "supplement, not supplant" provisions of § 186a.6;

(3) Seek comments and recommendations from those at the

The LEA must now describe at the public hearing how it will use the program funds to supplement existing programs.

hearing; and

(4) Provide a reasonable time for discussion of the proposed project and alternatives to it.

(Pub. L. 81–874, Section 305(b)(2)(B)(i); 20 U.S.C. 241dd(b)(2)(B)(i))

§ 186a.25 Application contents.

(a) *Local educational agencies.* After an applicant that is an LEA has held the public hearing described in § 186a.24 and given full consideration to comments and recommendations made at the hearing, the applicant prepares an application and submits it to the Secretary. In addition to the information required under applicable provisions of 45 CFR Part 100a, the applicant shall include in its application each of the following:

(1) A description of the procedures used to select the parent committee members.

(Pub. L. 81–874, Section 305(b)(2)(B)(ii); 20 U.S.C. 241dd(b)(2)(B)(ii))

(2) The names, addresses, and telephone numbers of the officers of the parent committee, and the number of parents, teachers, and students on the committee.

(Pub. L. 81–874, Section 305(b)(2)(B)(ii); 20 U.S.C. 241dd(b)(2)(B)(ii))

(3) A description of the applicant's plan for the continual involvement of the parent committee in the operation and evaluation of the project, including procedures for regular consultation with the committee.

(Pub. L. 81–874, Section 305(b)(2)(C); 20 U.S.C. 241dd(b)(2))C))

(4) A description of how the needs assessment and ranking process described in § 186a.21 was carried out, including a description of the role played by the parent committee.

(Pub. L. 81–874, Section 305(a); 20 U.S.C. 241dd(a))

An application packet will be sent out annually by the Department of Education. It will contain all requirements under these regulations and under the Department of Education general regulations. The application packet will be sent automatically to most LEAs that have applied the year before. Others should make sure they request them.

(5) On a form provided by the Secretary a description of the special educational and culturally related academic needs of the Indian children enrolled in the applicant's schools, including the number of children who demonstrate those needs, and a list of those needs ranked by priority.

(Pub. L. 81–874, Section 305(a); 20 U.S.C. 241dd(a))

(6) A detailed description of the project, including a project design that meets the requirements of § 186a.22, and a statement of the number of children who will participate in each component of the project.

(Pub. L. 81–874, Section 305(a)(2); 20 U.S.C. 241dd(a)(2))

(7) An assurance that the applicant will administer, or supervise the administration of, the activities and services for which it seeks assistance.

(Pub. L. 81–874, Section 305(a)(1); 20 U.S.C. 241dd(a)(1))

(8) A description of the methods of administration that have been or will be adopted to ensure that the applicant will operate the project properly and efficiently.

(Pub. L. 81–874, Section 305(a)(2); 20 U.S.C. 241dd(a)(2))

(9) A description of the applicant's policies and procedures that ensure that funds made available under Part A of the Indian Education Act will be used to supplement and, to the extent practical, increase the level of funds—including other Federal funds—that would, in the absence of funds under Part A of the Act be made available by the applicant for the education of Indian children, and in no case so as to supplant those other funds.

(Pub. L. 81–874, Section 305(a)(5); 20 U.S.C. 241dd(a)(5))

(10) A statement of how the proposed project will be fiscally and

administratively coordinated with other projects to meet the special educational and culturally related academic needs, or both, of Indian children.

(Pub. L. 81–874, Section 305(a); 20 U.S.C. 241dd(a))

(11) A statement of the applicant's fiscal control and fund accounting procedures that ensure proper disbursement of and accounting for funds that the applicant may receive under Part A of the Indian Education Act.

(Pub. L. 81–874, Section 305(a)(6); 20 U.S.C. 241dd(a)(6))

(12) A description of the procedures, including an appropriate objective measurement of educational achievement, that the applicant will adopt to monitor and evaluate, at least annually, the effectiveness of the proposed project in achieving its objectives. these procedures shall include the involvement of the parent committee and consultation with parents of the Indian children served by the project.

(Pub. L. 81–874, Section 305(a)(4); 20 U.S.C. 241dd(a)(4))

(13) An assurance that the applicant will keep records that the Secretary may reasonably require to carry out the Secretary's functions under Part A of the Indian Education Act and will afford the Secretary the access necessary to verify those records.

(Pub. L. 81–874, Section 305(a)(7); 20 U.S.C. 241dd(a)(7))

(14) In the case of an application for planning, evidence that—

(i) The planning will be directly related to projects to be carried out under Part A of the Indian Education Act and is reasonably likely to result in a project that will be carried out under Part A of the Act; and

(ii) The planning funds are needed

because of the innovative nature of the project or because the LEA lacks the resources necessary to plan adequately for projects to be carried out under Part A of the Indian Education Act.

(Pub. L. 81–874, Section 305(a)(3); 20 U.S.C. 241dd(a)(3))

(15) Other information that the Secretary may require as part of the application form.

(Pub. L. 81–874, Section 305(a); 20 U.S.C. 241dd(a))

(b) *Tribal schools.* (1) An applicant applying for assistance to support a tribal school shall comply with paragraphs (a)(4) through (a)(15) of this section, except the provisions of those paragraphs that refer to a parent committee.

(2) If an applicant claims eligibility on the ground that it operates a school under contract with the Bureau of Indian Affairs in accordance with the Indian Self-Determination and Education Assistance Act, the applicant shall include in its application detailed budget information from the contract, such as line-item amounts for particular services and activities.

(Pub. L. 95–561, Section 1146; 20 U.S.C. 241bb-1)

§186a.26 Continuation awards.

(a) *Public hearing.* Before submitting an application for a continuation award, a grantee shall hold a hearing open to the general public. At the hearing, the grantee shall provide an opportunity for full public discussion of all aspects of the project to date and for the remainder of the project period, including discussion of such topics as—

(1) The adequacy of other projects and services provided by the grantee to meet the special educational and culturally related academic needs of Indian children;

(2) How the project has been and will

(The public hearing must be held annually, even if the LEA has been given a three-year award.)

be coordinated with other projects and services to meet the special educational and culturally related academic needs of those children; and

(3) The grantee's compliance with the "supplement, not supplant" provisions of §186a.6.

(b) *Parent committee approval.* Before an LEA may submit an application for a continuation award, the application must have the written approval of the parent committee.

(Pub. L. 81–874, Section 305(b)(2)(B); 20 U.S.C. 241dd(b)(2)(B))

Subpart D–How Grants Are Made.

§186a.30 Approval of applications by the Secretary.

(a) The Secretary approves an application for assistance only if—

(1) The application meets all the applicable requirements of the Indian Education Act, of Part 100a, of Part 186, and of this part; and

(2) If the project for which the application is submitted will substantially increase the educational opportunities of Indian children served by the applicant.

(b)(1) If an application that was submitted on or before the application deadline date—

(i) Proposes unauthorized activities; or

(ii) Proposes costs that are not reasonable and necessary, the Secretary may provide the applicant an appropriate opportunity to amend its application and may specify a date by which the applicant shall amend its application.

(2) If the applicant has not appropriately amended its application by the date specified by the Secretary, the Secretary may disapprove the application.

(Pub. L. 81–874, Section 305(b); 20 U.S.C. 241dd(b))

An application received on time may be amended. The Secretary will specify how much time the applicant has to make the required changes.

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§186a.31 Amount of grant.

(a) The amount of the grant to which an applicant is entitled for any fiscal year is computed on the basis of the formula in Section 303(a) of Pub. L. 81-874. (Title III of that statute is Part A of the Indian Education Act.)

(b) Under the statutory formula, the amount of the grant to which an applicant is entitled is computed by—

(1) Multiplying the number of Indian children enrolled in the schools of the applicant to whom it provides free public education by—

(2) The average per pupil expenditure for all LEAs in the State in which the applicant is located.

(c) In setting the actual amount of a grant, an applicant's entitlement amount is reduced proportionately with that of all other applicants on the basis of available appropriations.

(Pub. L. 81-874, Sections 303(a), 307(a); 20 U.S.C. 241bb(a), 241ff(a))

(a) The formula found in §303(a) of P.L. 81-874 is still used to compute the amount of the grant.

(b) The entitlement is equal to the number of Indian children enrolled in the LEA's schools multiplied by the state average per pupil expenditure.

(c) The entitlement will be reduced proportionately based on the amount of money appropriated for Part A by the Congress.

Subpart E—Operating a Project

§186a.40 Responsibilities of the local educational agency.

It is the responsibility of the LEA to—

(a) Ensure that a parent committee is selected in accordance with §186a.20.

(b) Consult with and involve the parent committee in all phases of the project;

(c) Perform a needs assessment that meets the requirements of §186a.21;

(d) Design a project that meets the requirements of §186a.22 and an evaluation plan that meets the requirements of §186a.23.

(e) Conduct a public hearing in accordance with § 186a.24;

(f) Secure the parent committee's written approval of the project application, applications for continuation awards, and amendments to applications (including revisions to the project budget and project design)

This section describes the basic responsibilities of the local education agency.

before those documents are submitted to the Secretary;

(g) Provide the parent committee with copies of 45 CFR Parts 186 and 186a, other applicable regulations, the grant award document, and correspondence to or from the Department of Education relating to the project;

(h) Prepare the parent committee to carry out its responsibilities by, for example, holding workshops on 45 CFR Parts 186 and 186a and on other applicable regulations;

(i) With the advice of the parent committee, develop policies and procedures relating to the hiring of project staff;

(j) Hire the project staff after considering any recommendations of the parent committee;

(k) Use the best available talents and resources, including persons from the Indian community, in carrying out the project;

(l) Monitor and evaluate the project in accordance with an evaluation plan that meets the requirements of § 186a.23;

(m) Make available to the parent committee and to the Indian community records, including financial records, relating to the project, except those records that are protected by law from disclosure; and

(n) Ensure that a student certification form is on file for each student included in the count of Indian students on which the amount of an entitlement is based.

(Pub. L. 81–874, Sections 303–305; 20 U.S.C. 241bb–241dd)

Individual student certification forms (known as 506 Forms) are now required by P.L. 95-561, Title XI, Part C.

§ 186a.41 Responsibilities of the parent committee.

It is the responsibility of the parent committee to—

(a) Adopt by-laws. These by-laws shall include, at a minimum, provisions on—

(1) The selection and duties of officers;

This section describes the basic responsibilities of the parent committee.

Parent committees are now required by P.L. 95-561 to have bylaws.

(2) Filling vacated terms on the committee;

(3) The conduct of business meetings; and

(4) Amending the by-laws;

(b) Participate in the assessment of needs, and the design, operation, and evaluation of the project;

(c) Review and approve in writing, before they are submitted to the Secretary, the project application, applications for continuation awards, and amendments to applications (including revisions to the project budget and project design);

(d) Advise the LEA on the development of policies and procedures relating to the hiring of project staff;

(e) Review the qualifications of, and make recommendations concerning, applicants for project staff positions; and

(f) Make available to the community copies of its records, such as by-laws, minutes of meetings, and the list of committee members except those records that are protected by law from disclosure.

(Pub. L. 8[illegible]-874, Sections 305(b)(2) (B), (C); 20 U.S.C. 241dd(b)(2) (B) (C))

(d) This section on hiring policies and procedures is taken directly from P.L. 95-561 Title XI, Part C.

§ 186a.42 Limitations on hiring project staff.

(a)(1) The LEA may not hire for a position on the project staff any member of the parent committee.

(2) The LEA may not hire for a position on the project staff any member of the immediate family of a parent committee member.

(b) The Secretary may waive the prohibition in paragraph (a)(2) of this section if—

(1) The applicant is unable to hire another person with adequate qualifications; or

(2) The waiver is necessary to further the purpose of the project.

Clarifies the waiver provision for hiring committee members or members of their immediate family.

(c) If the Secretary grants a waiver, the affected parent committee member

may not participate in any committee action that affects, or is likely to affect, the financial interests of that individual's immediate family member who is on the project staff.

(d) A member of the parent committee may not participate in a review of applicants for a project staff position or in any other committee actions relating to that position, if that individual or any member of his or her immediate family is an applicant for that position.

(e) As used in this section, the term "immediate family" includes an individual's spouse, children, parents, brothers, sisters, legal dependents, and spouses of those persons.

(Pub. L. 81–874, Section 305(b)(2); 20 U.S.C. 241dd(b)(2))

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